

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Pine Street Co-housing Condo. Association (PSCCA), c/o Bruce Coldham

Date application filed with the Town Clerk: September 23, 2008

Nature of request: A Special Permit to: (1) convert a barn to a third dwelling unit under Section 3.3241 of the Zoning Bylaw; (2) modify Special Permits ZBA FY87-98 Conditions #1 & #5, FY92-22 Conditions #10 & #11 and FY99-0002 Conditions #1 & #5 to allow the barn to be a residential unit; (3) waive the dimensional requirements per Section 3.3241.7 one time for the lot area; (4) waive the requirement of Section 7.711 to allow the common driveway to serve five lots

Address: 155 Pine Street (Map 5B-1D, Parcel 156, R-N Zone)

Legal notice: Published October 8 and October 15, 2008 in the Daily Hampshire Gazette and sent to abutters on October 9, 2008

Board members: Thomas Simpson, Barbara Ford and Albert Woodhull

Submissions: The petitioner submitted with the application a memo with background information, Management Plan, a site plan and a set of floor plans for the barn, drawn by architect Bruce Coldham, dated September, 2008. For the hearing, a survey of the PSCCA property was submitted, dated October 10, 1991.

The zoning assistant submitted a memo concerning the application dated October 17, 2008 concerning the previous Special Permits for individual lots versus the PSCCA land now all commonly owned. Also submitted were previous Special Permits for the PSCCA:

1. ZBA FY87-98 – conversion of a single-family to a two-family dwelling, on the same property as that under consideration;
2. ZBA FY92-22 – creation of three flag lots, with duplexes on each, with a shared driveway, on property behind the two-family site;
3. ZBA FY93-63 – amends FY92-22 to allow for a two-phase development;
4. ZBA FY95-11 – allows rental units for PSCCA under certain circumstances;
5. ZBA FY99-0002 – a sun room addition to the two-family dwelling;
6. ZBA FY2003-00025 – creation of a fourth flag lot with a duplex, with use of the shared driveway;
7. ZBA FY2004-00035 – to move a parking area from adjacent to a duplex to a new parking area.

A letter of support from the twelve (12) residents of the PSCCA was submitted to the Board, dated October 21, 2008. They stated that the conversion of the barn to a residential unit will further their interests in community, to “green” building methods and the conservation of open space.

Site Visit: October 21, 2008

The Board met with applicant Bruce Coldham and observed the following at the site:

- A large, approximately 7 ½ acre area owned by the PSCCA;
- The individual lot under consideration which is part of the PSCCA and contains the barn;

- The property boundaries for the lot under consideration;
- The closeness of the condominiums in relation to the entire 7-acre parcel;
- The inside of the barn, which currently is an office for the applicant and a studio for his wife;
- The parking outside the barn, which is shared with the condominiums;
- The shared driveway, which is used by four properties now, 8 condominiums.

Public Hearing: October 23, 2008

Mr. Coldham spoke to the petition at the hearing. He began by giving the history of the separate properties that later became a condo association. Originally, Mr. Coldham's family and another family divided the main house on the property under consideration and the barn became his office/studio. The idea for a co-housing group was developed about six years later, when he and others purchased the adjacent properties. A Special Permit was obtained for three flag lots with duplexes on each. Later they were joined together via a Master Deed to become the Pine Street Co-housing Condominium Association (PSCCA).

Eventually another flag lot with a duplex was added via Special Permit. Thus each of the five parcels of the PSCCA received a Special Permit from the Board of Appeals, and each contains a duplex. When the PSCCA was formed, the land was combined to be owned in common, while each of the condominiums was owned individually.

When the PSCCA was formed, the barn on Mr. Coldham's property was established as a common building for the community. Conditions of the Special Permits prohibited it from becoming another dwelling unit. The community building never developed, and Mr. Coldham continued to use the barn as an office and studio, an accessory use allowed by the Zoning Bylaw without a Special Permit.

The concept of co-housing became popular with the Town at the time, but the permitting for the PSCCA was convoluted. Later, a new category was added to the Zoning Bylaw, Section 4.5, Open Space Community Development (OSCD), which requires one Special Permit from the Planning Board for the entire development. Section 4.5 has been used for similar developments since that time; the PSCCA is unique in that was created via the ZBA Special Permit process for each lot.

The old permitting structure has restricted the PSCCA, Mr. Coldham stated, in terms of the configuration of the houses. Also, it limited the number of units allowed on the 7 ½ acres of now common land. Mr. Coldham stated that if the Open Space Community Development, Section 4.5, had been available, 15 units could have been built on the PSCCA land.

The barn that is proposed for conversion to a dwelling unit is part of Mr. Coldham's original lot. Thus the original Special Permit ZBA FY87-98 for a two-family dwelling on that lot is the main Special Permit that must be modified. Other Special Permits that restrict the use of the barn must also be modified; they are Special Permit ZBA FY92-22 and ZBA FY99-0002.

Mr. Coldham stated that he spent much time with the Building Commissioner, the zoning assistant and Planning Department staff in terms of how the proposed change should be addressed. They all finally agreed that modification of the 1987, 1992 and 1999 Special Permits was the best option available, since zoning goes with the property, independent of the PSCCA current status.

At this point in the hearing, there was extended discussion by the Board, the Building Commissioner, the zoning assistant and the petitioner concerning the common land ownership of the PSCCA and the original individual lots with two-family structures allowed via Special Permits.

Mr. Woodhull summed up the discussion by saying that the Town originally did not have a clear method of permitting co-housing developments, and this co-housing association via individual Special Permits per lot was a pre-cursor of what was later established, a much more uniform way of way of permitting with the OSCD. In his opinion, the applicants should not be penalized for what wasn't available at the time, and should not be forced to re-permit the five parcels at great expense in order to be classified as an OSCD. Any irregularities can be addressed under Section 10.38, Findings required of all Special Permits, he said.

The Board agreed that the proposal should be considered under the original zoning structure, and that Section 3.3241 of the Zoning Bylaw, Converted Dwelling, was the appropriate category under which to consider the proposal.

The petitioner reviewed the conversion of the barn to a third dwelling unit under Section 3.3241 of the Zoning Bylaw. He gave the following points:

1. A detached structure constructed prior to 1964 may be converted to a dwelling unit;
2. The conversion may include up to four (4) units in an R-N district; 3 units are requested;
3. No change to the exterior of the building is proposed; (The dark area on the submitted site plan is for possible future construction, and would require another Special Permit;)
4. The proposed conversion is located in an area close to a heavily traveled street (Pine Street) and in an area already developed for multi-family use;
5. The proposed dwelling unit is connected to Town water/sewer;
6. The barn has a footprint of 1302 square feet, in excess of the required 500 square feet;
7. A Management Plan is included as part of the application, which is the same as managing the entire PSCCA;
8. Over 1,000 sq. ft. per dwelling unit of usable open space is provided.

The applicant addressed the one aspect of Section 3.3421 that the proposal does not meet. The parcel does not have the 32,000 square feet required for a third unit; it is about 2,000 sq. ft. short of the requirement. He asked the Board for a waiver to modify the dimensional requirements of Table 3 one time only. He stated that the modification will be in accordance with the provisions of Section 9.22 (that is, the conversion will not be more detrimental to the neighborhood than the existing use) since there will be much less traffic and use of the barn as a residence than as an office with employees and clients coming to the site.

The applicant also asked for a waiver from Section 7.711 that the common driveway can serve more than the four flag lots. The barn as a dwelling unit would be the fifth parcel served.

The Board indicated that they would be able to grant both of the waivers.

In terms of shielding the parking outside the barn, that applicant said that landscaping already exists for the parking, the parcel and for the entire PSCCA land; hence no new plan was submitted. The Board agreed that a landscaping plan was not needed in this case.

The applicant then addressed the changes that would be needed to three Special Permits to allow the barn to be used as a dwelling unit and to issue the permits to the PSCCA instead of Mr. Coldham.

Mr. Simpson asked if the waivers and changes to the Special Permits had been duly advertised, since they were not listed on the application. The zoning assistant assured that Board that all parts of the request had been duly advertised in the press and to abutters.

Ms. Ford asked about the restriction on "bathing facilities" for the barn that was indicated in one of the earlier Special Permits when the barn was considered a common building. Mr. Coldham said that the barn currently

has a half-bath on the first floor. If the barn becomes a dwelling unit, a full bath would be created upstairs. He and his wife plan to live in the barn, and sell the condominium in the farmhouse where they've lived for many years.

Ms. Ford made a motion to close the hearing. Mr. Woodhull seconded the motion, and the vote was unanimous to close the public hearing.

Public Meeting:

The Board reviewed Section 9.22 of the Zoning Bylaw and determined that another dwelling unit on either the 30,000 sq. ft. lot under consideration or the entire 7.5 acres of the PSCCA would not negatively impact the surrounding area, and may result in less traffic on the site than did an architect's office.

The Board reviewed the three Special Permits under consideration, and determined that the changes in condition to the permits could be addressed in the conditions of the new Special Permit.

Mr. Simpson made a motion to make the following changes to the three Special Permits:

1. Special Permit ZBY FY87-98: Condition #1 - to issue the permit to the PSCCA, not Coldham;
Condition #7 – rescind (and allow the barn to be used as a residence);
2. Special Permit ZBY FY92-22: Condition #10 – delete (a Management Plan for the shared barn);
Condition #11 – rescind (& use the barn as a residence);
3. Special Permit ZBY FY99-22: Condition #1 - to issue the permit to the PSCCA, not Coldham;
Condition #5 – rescind (and allow the barn to be a residence);

Ms. Ford seconded the motion, and the vote was unanimous to change the above conditions to the three Special Permits.

Mr. Simpson made a motion to grant a waiver for a one-time relief from the dimensional requirements of Table 3 of the Zoning Bylaw for the required lot area of 32,000 sq. ft. for a three dwelling units on one lot. The applicant's lot is 30,000 sq. ft. in area. Ms. Ford seconded the motion, and the vote was unanimous to grant a waiver for a one-time relief from the dimensional requirements of Table 3 for the required lot area.

Mr. Simpson made a motion to waive Section 7.711 of the Zoning Bylaw to allow the common driveway to serve five lots to include access to the barn as a dwelling unit. Ms. Ford seconded the motion and the vote was unanimous to waive Section 7.711 to allow the common driveway to serve five lots.

The Board spent the remainder of the public meeting crafting conditions of the Special Permit if the application were to be approved.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because there are other multi-family dwellings in the immediate neighborhood and the co-housing organization supports the barn conversion to a dwelling unit.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the barn already exists and has been in use. The barn is screened from many of the other condominiums by fencing and landscaping.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the driveway already exists and the impact of residential traffic will

be less than that of office traffic.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the conversion from an office/studio to a residential unit will be determined by the building code.

10.386 – The proposal ensures that it is in conformance with the Parking regulations of the town because twenty-three (23) parking places are provided for 11 units over the entire shared property, two for each unit as required by Section 7.00 of the Zoning Bylaw plus one extra.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the property is connected to Town water/sewer, and the approved Management Plan describes the refuse/recyclable disposal process.

10.391 – The proposal protects unique or important historic features because the houses are clustered, leaving a large amount of open space. Also, the barn has been restored, but many of the barn characteristics have been preserved.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, because earlier Special Permits have required screening, which now provides screening from all angles. The open space appears to be nicely landscaped with lawn, gardens or trees.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because exterior lighting for the barn will be downcast.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because the barn was part of the original farmhouse and has been part of the PSCCA since its inception.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. It also provides an additional housing unit without adding another building on the co-housing land.

Public Meeting – Zoning Board Decision

Ms. Ford made a motion to APPROVE a Special Permit to the Pine Street Co-housing Condominium Association for: (1) convert a barn to a third dwelling unit under Section 3.3241 of the Zoning Bylaw; (2) modify Special Permits ZBA FY87-98 Conditions #1 & #5, FY92-22 Conditions #10 & #11 and FY99-0002 Conditions #1 & #5 to allow the barn to be a residential unit; (3) waive the dimensional requirements per Section 3.3241.7 one time for the lot area; (4) waive the requirement of Section 7.711 to allow the common driveway to serve five lots at 155 Pine Street (Map 5B-1D, Parcel 156, R-N Zone), with conditions. Mr. Woodhull seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit to the Pine Street Co-housing Condominium Association for the above four requests, with conditions.

THOMAS SIMPSON

BARBARA FORD

ALBERT WOODHULL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____, 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

**Town of Amherst
Zoning Board of Appeals**

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to the Pine Street Co-housing Condominium Association for: (1) convert a barn to a third dwelling unit under Section 3.3241 of the Zoning Bylaw; (2) modify Special Permits ZBA FY87-98 Conditions #1 & #5, FY92-22 Conditions #10 & #11 and FY99-0002 Conditions #1 & #5 to allow the barn to be a residential unit; (3) waive the dimensional requirements per Section 3.3241.7 one time for the lot area; (4) waive the requirement of Section 7.711 to allow the common driveway to serve five lots at 155 Pine Street (Map 5B-1D, Parcel 156, R-N Zone), subject to the following conditions:

1. This permit is issued to the Pine Street Co-housing Condominium Association (PSCCA) only.
2. The barn dwelling unit shall be for a single household and shall be owner-occupied.
3. The Management Plan approved by the Board at a public meeting October 23, 2008 and on file with this permit in the zoning office shall supersede all previous Management Plans for the barn once it is converted to a residence.
4. If the conditions of this permit are in conflict with any earlier Special Permits for the land of the PSCCA, this Special Permit shall take precedence.
5. The following Special Permits shall be modified as listed:
 - Special Permit ZBY FY87-98: change Condition #1, to issue the permit to the PSCCA, not Coldham; and to rescind Condition #7 (in order to allow the barn to be used as a residence);
 - Special Permit ZBY FY92-22: delete Condition #10 (a Management Plan for the barn used as a common building, not a dwelling unit, and to rescind Condition #11 (in order to allow the barn to be used as a residence);
 - Special Permit ZBY FY99-0002: change Condition #1, to issue the permit to the PSCCA, not Coldham; and rescind Condition #5 – (in order to allow the barn to be a residence).
6. The site plan and parking shall be as shown on the plan approved by the Board at a public meeting on October 23, 2008.
7. All external lighting on the barn shall be downcast.
8. Any modification to the footprint of the barn, other than the proposed screen porch, shall be presented to the Board at a public meeting in order to determine whether a modification to the Special Permit is required for the changes.
9. The address for the barn dwelling unit shall be shown at the entrance to the common driveway on a directory sign and/or a reflective sign approved by the Fire Department, visible in both directions. This permit is restricted to the owners of the PSCCA, and expires upon change of ownership of the land. The parcel on which the barn is located shall be maintained as part of the PSCCA.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE